

CAAAC MEETING NOTES
March 2, 2011
Metcalf Building, Room 111, 1:00 p.m.

Compiled by Oline Barta

ATTENDEES: Don Allen, *WETA*; Dexter Busby, *Montana Refining Co.*, Gordon Criswell, *PPL Montana*, Hal Robbins, *Bison Engineering*; Gail Abercrombie, *Gaila Consulting*, and Greg Gannon, *Holcim*. Go-To-Meetings attendees were: Randall Richert, *ConocoPhillips*; Bill Mercer, *Holland and Hart*, Stacy Aguirre, *WBIP*; Joe Lierow, *Exxon Mobil*, Clark Snyder, *Riverstone Health*, Kathy Dolan, *US EPA, Region 8*; Thomas Dzomba, *US Forest Service* and Steve Wright, *Columbia Falls Aluminum Co.* DEQ attendees: Eric Merchant, Dave Klemp, Chuck Homer, Deb Wolfe, Linda Glatz, Hoby Rash, Dave Aguirre, Judy Hanson, John Podolinsky, Bob Habeck, Becky Frankforter, and Oline Barta.

I. WELCOME AND INTRODUCTIONS: Eric Merchant welcomed the group told them that he wanted to re-access the effectiveness of the CAAAC meetings for the participants and asked for feedback as to ways the meetings could better meet their needs. He asked participants to introduce themselves. He checked with phone attendees to identify who had joined by Go-To-Meeting.

II. COMPLIANCE REPORTING: Eric introduced Linda Glatz, ARMB's System Analyst, to give an update on the Bureau's online emissions reporting system. She said that industry helped test the system and gave good feedback. She was able to implement some of the suggestions before the system went live January 1, 2011. Linda said about 90% of the 1200 facilities submitted on line. She thought the online reporting had been very successful and asked if any of the attendees had any feedback on how to improve. Comments were positive.

III. NAAQS UPDATE: Eric told the group that all 56 of Montana Counties were designated attainment for Nitrogen Dioxide (NO₂) in a Governor's letter to EPA December 2010. He went over the timeline for Sulfur Dioxide (SO₂) saying the Governor's designation was due in June of 2011, maintenance and infrastructure SIP's would be due in June of 2013 and attainment plans for nonattainment areas were due in February 2014. He said the Department anticipated an SO₂ nonattainment area around Billings. He thought that all other counties would be attainment, or more likely, unclassifiable. Eric said that ARMB was working with stakeholders on the June 2011 designation of SO₂. Some public outreach would also be done. He said the current Ozone (O₃) standard of 75 ppb was proposed by EPA to be revised to between 60-70 ppb. Eric said the final O₃ NAAQS rule was due by the end of July, 2011.

IV. PERMITTING ISSUES: Debbie Skibicki, ARMB Lead Permitter, addressed the issue of permitting problems. She acknowledged industry concern with the modeling compliance issue concerning the new 1-hour NO₂ standard. She said that Montana was working on finalizing some guidance that stems from an end of December EPA guidance that does not require modeling for facilities with emissions under 40 tons potential for NO_x. She said Montana has a rule that a permit cannot be issued that is not in compliance with national and state ambient air quality standards. ARMB has been working hard on the modeling issue and the Department will not be requiring modeling for minor sources in most cases that are below the 40 ton potential for NO_x. Debbie said that for modifications in many cases this will also be true. ARMB will also be looking at other factors including property boundaries, permit history and recent increases in allowable emissions for NO_x to ensure reasonable determinations. Debbie stated that EPA requires modeling for PSD sources, but the Department does not want to have a more stringent

minor source demonstration requirement than what is Federally required. She said that the SO₂ modeling demonstrations for the new SO₂ standard do not appear to be as difficult as with the new NO_x standard. While the Department has not done recent SO₂ permitting modeling, other states have not been having a problem with the demonstrations.

V. ARMB RULEMAKING: Deb Wolfe, ARMB Regulatory Analyst, provided an update on rule actions. She said the Open Burning and Revocation rules will be final in March. She said more information about the rules is available on the DEQ website and she offered to help anyone who needed help finding information. She said is working on an NSR rulemaking concerning PM_{2.5} she expects to initiate in May. She said the Federal PSD/NSR rules for major source permitting set significant emission rates, significant impact levels, and significant monitoring concentrations for PM-2.5. Montana needs to update its PSD/NSR rules as a result. Don Allen asked when a draft of this rule would be available. Deb thought she would have something ready to share by the first of April, but said the information would be the same as published in 73 FR 28321 and 75 FR 64864. Eric noted that EPA's Revision SIP and changes in PM_{2.5} for the NSR program has been ongoing for some time. Eric also said that he wanted CAAAC to participate in this rule process. This action was an effort to get the PM-2.5 implementation aspect into DEQ's state rules. Don Allen asked if this was actually putting the rule into Montana's rules instead of incorporating by reference. Deb said PM_{2.5} is referenced as a new pollutant along with existing pollutants in the PSD/NSR permitting process.

VI. SIP ACTIONS: Deb Wolfe started her discussion on SIP actions by saying that ARMB sent EPA comments on the proposed disapproval of the Oil and Gas registration program rules. She noted the Montana Petroleum Association and Continental Energy also submitted comments. Kathy Dolan of Region 8 US EPA acknowledged that it will take time and resources to go through all the comments. Deb asked about the status of the De Minimis Rule which changed the permitting threshold from 15 tons to 5 tons and is awaiting EPA approval. Kathy Dolan thought the de minimis rule proposal was being prepared and offered instead to check with Kevin Leone. Since he was not at his desk, Kathy said she would contact Deb to share the information as soon as she could and Eric said the CAAAC group would then be notified. Eric and Deb thanked Kathy for her efforts. Deb also said she would shortly be sending EPA the annual IBR Rule for SIP submittal.

VII. LEGISLATIVE UPDATE: Chuck Homer said that the first half of the legislative session had been busy. He said that he thought five bills remained that could have significant impact. He spoke of **HB 550** which would prohibit the state from regulating greenhouse gasses. He said DEQ would be prohibited from including GHGs in Federal permitting action, but that would not necessarily endanger ARMB's primacy at least in the near term. EPA has made it clear that states not regulating GHG would still retain PSD authority. In those instances, he said EPA would write a second PSD or NSR permit for GHG. He said that the Title V permit would work differently. In his discussions with EPA Region 8, Chuck understood that the state would write the Title V permit without GHG regulation, the EPA would object to it, the state would then refuse to include GHGs and EPA would then issue their own Title V permit. Chuck said it was not clear if the EPA Title V would only regulate GHGs.

Dexter Busby voiced concern about the issue of funding. Chuck agreed that funding was an issue. He said it was unclear how it would resolved. He thought in the short term there would be dual permits, but eventually he thought one permit would be eliminated. Dave Klemp said ARMB's role so far was informational. He said the Department hadn't had much of a chance to set the record straight that ARMB has not tried to establish a GHG program, but only mitigate impacts. Don Allen asked Kathy Dolan whether EPA encountered this type of legislation by

other states. Kathy responded that it was under discussion at all levels of the Agency across the country. She said that Texas was out in front and the Taylor Rule and the Narrowing rule were causing lots of complications. She said this meeting was helping her to understand the impacts and put the issues in perspective. Dexter Busby asked about the timeframe for EPA to issue a permit. Kathy would not hazard a guess; Chuck thought that recent program guidance stated that EPA would try to issue permits within 1 year.

Chuck mentioned another GHG bill, **SJR 10** which urges Congress to prevent EPA from regulating GHG. He said the Department doesn't participate in resolutions. He went on to talk about **HB 593** which would repeal the clean air act mercury rule ARM 17.8.771 and ARM 17.8.772. This bill has been transmitted to the Senate but not yet assigned. He said that 772 dealt with mercury allowance allocations under cap and trade, so in essence this one was already gone. He said the bill directs the BER to repeal 771. He said that this would mean a case by case MACT for new sources until the new Federal Rule takes effect. Debbie Skibicki said that the new MACT will be proposed in the next week or two and final in November of this year. If the same applicabilities were used for this as for the Clean Air Mercury Rule, all coal/oil-fired generation plants servicing a generator of 25 megawatts or greater would be subject to the new Utility MACT. Dexter asked about the Federal rule dates. Debbie thought it would be adopted in mid November. Asked if Montana had any input on the Federal rule, Dave Klemp responded that the Department urged dividing coal into subcategories. Debbie added that ARMB provided testing information that was available because of Montana's state rule. Gordon Criswell asked whether the new rule was looking at mercury emission limits or percent reductions. Debbie replied that she didn't know, some state rules used one, some used the other. Gordon said that he understood the logic of a numeric limit better than an overall percent reduction set to protect public health. Debbie said that a numeric standard made more sense to her based on how MACT standards are developed. Hal Robbins noted that Boiler MACTs had a limit for coal-fired facilities. Further discussion ensued concerning mercury control limits. Debbie thought that if a numeric standard was used the number would be less than 1 for utilities. Dave Klemp stated that the Department opposed HB 593 stating that a federal mercury rule was coming out. This new rule may surpass Montana's rule in stringency. Chuck Homer said that if HB 593 doesn't pass and there is a conflict between the two mercury rules, the Department would work with the source to make compliance achievable. Dave suggested that if a percentage standard makes stringency difficult to determine, Montana's 771 could be used to demonstrate compliance to the Federal MACT.

Chuck mentioned **SB 47**, which would remove the power of the BER to regulate wood chippers and grinders in forests, had been transferred to the House Natural Resources Committee. He thought **HB 40** which changes the standard for adoption of administrative rules may have significant impact. He said this change to Montana's Administrative Procedures Act (MAPA) would take "reasonable" out of "reasonable necessity" and make legislative approval necessary for the adoption of Federal rules. This would affect the adoption of ARMB's IBR annual rules, the new PM2.5 implementation and MACTs. He said this may delay ARMB's ability to remain current with Federal rules while waiting for the Legislature to return to session. Confusion may result as to the use of rule versions. He said the Department is watching this bill closely.

Dexter Busby asked about the impact of the Montana Environmental Procedures Act (MEPA) bill. Chuck replied that this bill would mainly affect EIS's and ARMB does not do very many of those, but the changes will probably involve the litigation that usually accompanies such change. He said **SB 317** adds more economic analysis while reducing environmental analysis. **SB 233** limits the ability to appeal and sue. He said a problem impeding permit issuance may happen but only rarely.

Chuck Homer went on to discuss budget issues. He said the Bureau did not have any significant change in the subcommittees. He noted the 5% reduction in state appropriations, including state special revenue/fees. He said the department was looking into how that would work. He said it will have an impact but not an overwhelming one. Chuck said the House Appropriations Committee was in session and should get to DEQ budget before the end of the week. He thought that, assuming no dramatic change in appropriations and judging by the emissions inventories that have been received so far, ARMB would not need to go before the BER requesting a fee increase. So far, the emissions data does not show a significant decrease in emissions that would decrease revenue collections. Chuck said that this emission inventory would fund the first year of the biennium. Chuck hoped to follow last year's procedure of keeping some vacancies open, restricting travel and looking at carryover. Dexter Busby asked about EPA Cuts? Chuck responded that he had seen both cuts and increases. He noted the President's budget actually has some increases.

VIII, ADDITIONAL BUSINESS: Eric opened the meeting for more questions. Greg Gannon asked for a clarification on the fee process. Chuck responded that every year ARMB reviews the process and doesn't expect the fees to change this year. He said he wouldn't know individual fee amounts until after all the emissions inventories were received. He did say that the process was going faster this year because of the electronic reporting. He said the CAAAC subgroup which was looking at making changes to ARMB fee structure and would be asked to start on that project again.

Hal Robbins asked about bringing back the Regional Haze Visibility Program. He had some client interest in the program and thought since some time had passed, maybe things have changed. He would like to have some discussions concerning the visibility program. Dave Klemp commented that this subject would require quite a bit of discussion. Eric asked Hal to email him with more information to begin a dialog and offered to get him more information about EPA status on this issue.

Eric reminded the group to give him feedback on the meeting forum if they thought it could be improved in any way. Dave Klemp questioned if the meetings were going into the right level of detail. This next meeting was planned for May 12, since a BER meeting is scheduled for May 13, 2011. Topics would include: a legislative update, SIP status of the Oil & Gas Registration Rule and the De Minimis rule and SO₂ designation information.

Meeting was adjourned at 2:30 p.m.